



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/777,078	02/05/2001	Alessandro Carissimo	P/80-1	9553

7590 05/07/2003

PHILIP M. WEISS  
WEISS & WEISS  
310 OLD COUNTRY ROAD  
SUITE 201  
GARDEN CITY, NY 11530

EXAMINER

SHIMIZU, MATSUICHIRO

ART UNIT	PAPER NUMBER
----------	--------------

2635

DATE MAILED: 05/07/2003

M

Please find below and/or attached an Office communication concerning this application or proceeding.

B

**Office Action Summary**

Application No.

09/777,078

Applicant(s)

CARISSIMO, ALESSANDRO

Examiner

Matsuichiro Shimizu

Art Unit

2635

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 23 March 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-3,6-14 and 17-24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3,6-10,12-14 and 17-24 is/are rejected.
- 7) ☒ Claim(s) 11 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

***Response to Amendment***

The examiner acknowledges amended claims 1-3, 9, 11, 17 and 20-21, and canceled claims 4 and 15-16.

The examiner withdraws the objection under 35 USC § 112, first paragraph, as the applicant has provided amended abstract.

***Response to Arguments***

Applicant's arguments with respect to claims 1-3, 9 and 17 have been considered but are moot in view of the new ground(s) of rejection.

Applicant's arguments filed on 3/20/2003 have been fully considered and examiners response is provided as follows:

Regarding applicant's argument (lines 14-22, page 6), the examiner maintains that Lovegreen teaches the system wherein said receiver can perform a wireless upload or download to said transmitter and/or wireless service provider (col. 5, lines 8-21, paging coasters, walkie talkies, cellular telephones, other rechargeable electronic devices). That is, applicant's argument addresses the claim 10 as defined by the specification. However, the rejections are based on the broadest reasonable interpretation, one of ordinary skill in the art considers the "claimed invention" to be.

Therefore, rejections of claims 1, 3, 6, 10, 12-14 and 17 as follows:

***Claim Rejections – 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 1 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

1. Regarding claim1, the phrase "such as" renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

***Claim Rejections – 35 USC § 103***

4 The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Art Unit: 2635

Claims 1 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lovegreen et al. (5,814,968) in view of Sibbitt (5,999,088).

Regarding claim 1, Lovegreen discloses an electronic paging system (Fig. 5, col. 1, line 49-59, a system associated with paging coaster for seating notification) comprising; a receiver (col. 5, lines 8-21, paging coasters, walkie talkies, other rechargeable electronic devices) having a display and a user interface; a transmitter (col. 1, line 49-59, restaurant owner transmits or pages by sending signals to paging coaster); and a software programmer (col. 6, lines 43-51, programmer associated with reprogramming the electronic device by uploading and downloading the software associated with data communication) which uploads and downloads software to and from said transmitter or receiver using remote access networks (col. 6, lines 43-51, wire-line communication to plural stacked-up remote electronic devices or pagers). But Lovegreen does not teach a graphic display and wireless communication.

However, Sibbitt discloses, in the art of restaurant paging system, a graphic display associated with restaurant menu items or advertisements (col. 1, lines 36-34, pager screen display of restaurant menu items, advertisements) for the purpose of providing a user-friendly system. Therefore, it would have been obvious to a person skilled in the art at the time the invention was made to include a graphic display in the

Art Unit: 2635

device of Lovegreen because Lovegreen suggests display and Sibbitt teaches a graphic display for the purpose of providing a user-friendly system.

Furthermore, one of ordinary skill in the art recognizes wire-line network is analogous to wireless network or telecommunication lines for the purpose of transferring data or software remotely. Therefore, it would have been obvious to a person skilled in the art at the time the invention was made to include wireless network or telecommunication lines in the device of Lovegreen in view of Sibbitt because Lovegreen in view of Sibbitt suggests wire-line network and one of ordinary skill in the art recognizes wireless network or telecommunication lines for the purpose of transferring data or software remotely.

Regarding claim 10, Lovegreen continues, as disclosed in claim 1, to disclose the system wherein said receiver can perform a wireless upload or download to said transmitter and/or wireless service provider (col. 5, lines 8-21, paging coasters, walkie talkies, cellular telephones, other rechargeable electronic devices).

Claims 6, 13-14 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lovegreen in view of Sibbitt as applied to claim 1 above, and further in view of Diem (5,696,500).

Regarding claims 6, 13-14 and 17, Lovegreen in view of Sibbitt continues, as disclosed in claim 1, to disclose a display, and said transmitter can download software through remote access networks such as a telecommunication line or wireless network and said transmitter stores information. But Lovegreen in view of Sibbitt does not teach a keypad or touch panel display, and said transmitter can download software through hard media, diskette, telecommunication line and wireless service provider, and said transmitter stores information relating to interaction between said receiver and its users.

However, Diem teaches, in the art of paging system, a keypad or touch panel display (claim 6, col. 10, lines 33-36), and said transmitter can download software through hard media, diskette, telecommunication line and wireless service provider (claim 13, col. 3, lines 3-27, a set of multimedia commands for a software; col. 5, lines 34-48, diskette in the computer, a set of multimedia commands for a software, Fig. 1 - wireless transmission between antenna (110, 112), telecommunication line (col. 4, lines 5-15, a leased phone line)), and said transmitter stores information relating to interaction between said receiver and its users (col. 1, line 42 to col. 2, line 13, transmitter prepares and stores a set of multi-media commands to be used by said receiver) for the purpose of providing enhanced paging system. Therefore, it would

Art Unit: 2635

have been obvious to a person skilled in the art at the time the invention was made to include mode of paging and interactive entertainment in the device of Lovegreen in view of Sibbitt as evidenced by Diem because Lovegreen in view of Sibbitt suggests an electronic paging system comprising; a display, and said transmitter can download software through remote access networks such as a telecommunication line or wireless network and said transmitter stores information and Diem teaches a keypad or touch panel display, and said transmitter can download software through hard media, diskette, telecommunication line and wireless service provider and said transmitter stores information relating to interaction between said receiver and its users for the purpose of providing enhanced paging system.

Claims 2, 7-9 and 18-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lovegreen in view of Sibbitt as applied to claim 1 above, and further in view of Okayama et al. (6,157,316).

Regarding claim 2, Lovegreen in view of Sibbitt discloses a software programmer (col. 6, lines 43-51, programmer associated with reprogramming the electronic device by uploading and downloading the software associated with data communication) which uploads and downloads software to and from said transmitter or receiver using remote access networks such as wireless network. But Lovegreen in



Art Unit: 2635

view of Sibbitt does not disclose a charger, which uploads and downloads software to and from said software programmer using remote access networks such as a telecommunication line or wireless network.

However, Okayama discloses, in the art of paging system, a charger, which uploads and downloads software to and from said software programmer using remote access networks such as wire-line network (col. 6, lines 1-8, downloading to components of software programmer in the apparatus 103 via charger or PCMCIA I/F 8) for the purpose of automatically transferring software. Therefore, it would have been obvious to a person skilled in the art at the time the invention was made to include a charger, which uploads and downloads software to and from said software programmer using remote access networks such as wire-line network in the device of Lovegreen in view of Sibbitt because Lovegreen in view of Sibbitt suggests paging coasters to notify the customer to be seated at individual tables and Okayama teaches a charger which downloads software from said software programmer using remote access networks such as a wire-line network for the purpose of automatically installing the application program.

Furthermore, one of ordinary skill in the art recognizes wire-line network is analogous to wireless network or telecommunication lines for the purpose of

Art Unit: 2635

transferring data or software remotely. Therefore, it would have been obvious to a person skilled in the art at the time the invention was made to include wireless network or telecommunication lines in the device of Lovegreen in view of Sibbitt because Lovegreen in view of Sibbitt suggests wire-line network and one of ordinary skill in the art recognizes wireless network or telecommunication lines for the purpose of transferring data or software remotely.

Regarding claims 7-8, Lovegreen continues, as disclosed in claim 2, to disclose said receiver can download software and data from said charger (Fig. 5, base unit (10)) and through conductive contacts (col. 6, 43-54, reprogramming the electronic devices (20) via conductive contacts (col. 6, lines 35-42, physical contacts)).

All subject matters in claim 9 are disclosed in claims 1-2 and 7, and therefore rejection of the subject matters expressed in claim 9 are met by references and associated arguments applied to rejection of claims 1-2 and 7.

Regarding claim 18-21, Lovegreen continues, as disclosed in claim 2, to disclose a single charger can support many receivers at one time (Fig. 5, chargers (10a-b) and receivers or pagers (20a-f)), said charger can support both chargers and stores software (col. 6, lines 43-51, reprogramming the electronic devices from said charger), said charger stores information relating to how and when said receiver was

Art Unit: 2635

used (col. 5, lines 18–22, providing stored information to paging coasters), and said charger can download software through hard media (Fig. 5, reprogramming the electronic devices through terminals (57a–b and 58a–b)).

Claims 23–24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lovegreen in view of Sibbitt and Okayama et al. (6,157,316) as applied to claim 2 above, and further in view of Diem.

Regarding claims 23–24, Lovegreen continues, as disclosed in claim 2, to disclose said charger downloads software (col. 6, lines 43–51, reprogramming the electronic device) through hard media (Fig. 5, reprogramming the electronic devices through terminals (57a–b and 58a–b); col. 1, 1, lines 49–59, pager; col. 6, 43–54, a charger or base unit (10)). But Lovegreen in view of Sibbitt and Okayama does not disclose said charger can download software through telecommunication line and wireless service provider.

However, Diem discloses, in the art of paging system, said transmitter can download software (col. 3, lines 3–27, a set of multimedia commands for a software) through telecommunication line and wireless service provider (telecommunication line (col. 4, lines 5–15, a leased phone line); Fig. 1– wireless transmission between antenna (110, 112) within the paging environment) as a hard media of downloading software.

Art Unit: 2635

Therefore, it would have been obvious to a person skilled in the art at the time the invention was made to include telecommunication line and wireless service provider in the device of Lovegreen in view of Sibbitt and Okayama as evidenced by Diem because Lovegreen in view of Sibbitt and Okayama suggests hard media and Diem teaches telecommunication line and wireless service provider as a hard media of downloading software.

Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lovegreen in view of Sibbitt and Okayama et al. (6,157,316) as applied to claim 21 above, and further in view of Diem.

Regarding claim 22, Lovegreen continues, as disclosed in claim 21, to disclose said charger downloads software through hard media. But Lovegreen in view of Sibbitt and Okayama does not disclose hard media is a diskette or CD.

However, Diem discloses, in the art of paging system, said transmitter can download software through diskette (Fig. 4, col. 5, lines 34-48, diskette in the computer workstation). Furthermore, one of ordinary skill in the art recognizes a floppy disk in a computer workstation and diskette are equivalent. Therefore, it would have been obvious to a person skilled in the art at the time the invention was made to include a diskette in the device of Lovegreen in view of Sibbitt and Okayama as

Art Unit: 2635

evidenced by Diem because Lovegreen in view of Sibbitt and Okayama suggests hard media and Diem teaches a diskette as a hard media for downloading software.

Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lovegreen in view of Sibbitt as applied to claim 1 above, and further in view of McNally et al. (5,850,214).

Regarding claim 12, Lovegreen continues, as disclosed in claim 1, to disclose paging coasters (col. 1, lines 49–59, paging coasters) to notify the customer to be seated at individual tables. But, Lovegreen et al. in view of Sibbitt does not disclose said transmitter tracks the last several pages that were made.

However, McNally discloses, in the art of restaurant paging system, said transmitter tracks the last several pages that were made (col. 5, lines 32–65, restaurant wait list mode of the clipboard acts as transmitter to transmit the waiting status to the pager, and updating the paged status by providing the light) to control the seating arrangement of the restaurant. Therefore, it would have been obvious to a person skilled in the art at the time the invention was made to include said transmitter tracks the last several pages that were made in the device of Lovegreen et al. in view of Sibbitt because Lovegreen et al. in view of Sibbitt suggests paging coasters to notify the customer to be seated at individual tables and McNally teaches said transmitter

Art Unit: 2635

tracks the last several pages that were made to control the seating arrangement in the restaurant.

Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lovegreen in view of Sibbitt as applied to claim 1 above, and further in view of Hymel (6,114,969) and Wicks (5,942,969).

Regarding claim 3, Lovegreen continues, as disclosed in claim 1, to disclose a pager. But Lovegreen in view of Sibbitt does not disclose mode of paging, advertising and interactive entertainment using two-way communication with other receivers and devices.

However, Hymel discloses, in the art of paging system, mode of paging, advertising (col. 3, 16-30, message received; col. 4, lines 7-52, advertisement message followed by update message) using two-way communication (col. 7, lines 51-61, SCR transmit to the communication center) for the purpose of providing enhanced system. Therefore, it would have been obvious to a person skilled in the art at the time the invention was made to include mode of paging, advertising using two way communication in the device of Lovegreen in view of Sibbitt as evidenced by Hymel because Lovegreen in view of Sibbitt suggests the pager and Hymel teaches mode of

Art Unit: 2635

paging, advertising using two way communication for the purpose of providing enhanced paging system.

Furthermore, Wicks discloses, in the art of paging system, mode of paging and interactive entertainment (col. 3, lines 39-50, and col. 5, lines 21-32, two-way pager and treasure hunt) for the purpose of providing enhanced paging system. Therefore, it would have been obvious to a person skilled in the art at the time the invention was made to include mode of paging and interactive entertainment in the device of Lovegreen in view of Sibbitt as evidenced by Wicks because Lovegreen in view of Sibbitt suggests the pager and Wicks teaches mode of paging and interactive entertainment for the purpose of providing enhanced paging system.

*Allowable Subject Matter*

The following is a statement of reasons for the indication of allowable subject matter:

Claim 11 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Art Unit: 2635

Said transmitter informs said receiver of queue status including updated information as to where a user is in the queue, as claimed in dependent claim 11, are not taught nor suggested by the prior art of record.

*Contact Information*

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matsuichiro Shimizu whose telephone number is (703) 306-5841. The examiner can normally be reached on Monday through Friday from 8:00 AM to 4:30 PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Horabik, can be reached on (703-305-4704). The fax phone number for the organization where this application or proceeding is assigned is (703-305-3988).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703-305-8576).

Matsuichiro Shimizu

April 27, 2003



MICHAEL HORABIK  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2600

